

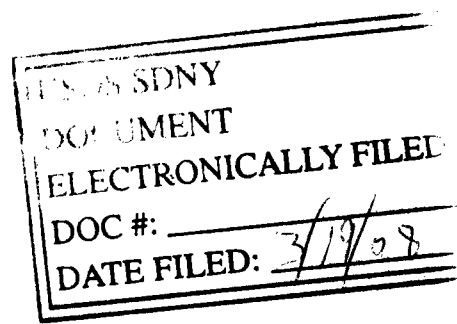
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MEMO ENDORSED

Chambers of the Hon. Lewis A Kaplan
U.S. District Court, SDNY
500 Pearl Street, Room 1310
New York, NY 10007

March 12, 2008

Re: Troy Shorter v. City of New York et al. 07 CV 4793 (LAK)

Your Honor-

Plaintiff writes to respectfully request a pre-motion conference in advance of filing a motion to compel defendants to produce the Civilian Complaint Review Board ("CCRB") file.

One of the alleged incidents in the complaint relates to a gun point stop and search of plaintiff and his automobile on March 9, 2007. The interaction did not result in an arrest. Plaintiff subsequently filed a complaint with the CCRB.

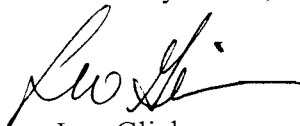
Plaintiff does not know the identity of the officers involved with this incident. Defendants maintain that they do not know the identity of the officers involved in the alleged incident or whether the incident even occurred. They claim that they are continuing to search for any stop and frisk reports that should have been generated had the incident occurred.

We believe that the CCRB file will contain the identities of the officers involved in this incident. Plaintiff requested the file but defendants have refused to produce it, claiming that the matter is still pending. Defendants have not asserted a privilege in their discovery responses.

The deliberative process privilege does not cover purely factual material. Grand Cent. Partnership, Inc. v. Cuomo, 66 F.3d 473, 482 (2d cir. 1999). Clearly, the CCRB file will contain factual material that does not contain opinions or deliberative materials, such as the synopses and tapes of the interviews.

The close of discovery for this matter is April 14. Defendants have represented that the investigation will be completed in 30-60 days, but this will not provide enough time for plaintiff to identify the officers and depose them. We therefore must ask the court to compel defendants to produce the CCRB file.

Sincerely Yours,




Leo Glickman

CC: ACC Anna Nguyen
100 Church St.
New York, NY 10007

MEMO ENDORSED

The Court, having conferred
with both counsel, directs
the City to identify any officers
involved in the 3/9/07 incident on
or before 3/24/08

SO ORDERED


LEWIS A. KAPLAN, USDJ

3/19/08